

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRIGITTE MARIE WASHINGTON,

Plaintiff,

v.

Case No. 09-CV-472

MICHAEL ASTRUE, Commissioner of
Social Security Administration,

Defendant.

ORDER

Plaintiff Brigitte Marie Washington ("Washington") filed a social security complaint seeking judicial review of a decision to deny her disability benefits. In connection with her complaint, Washington also filed a motion for leave to proceed *in forma pauperis*. After reviewing Washington's petition and affidavit, the court will grant the motion.

The federal *in forma pauperis* statute, 28 U.S.C. § 1915, is designed to ensure indigent litigants meaningful access to the federal courts. *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). To authorize a litigant to proceed *in forma pauperis*, the court must first determine that the litigant is unable to pay the costs of commencing the action. 28 U.S.C. § 1915(a). Second, the court must determine that the action is neither frivolous nor malicious, does not fail to state a claim, and does not seek money damages against a defendant immune from such relief. 28 U.S.C. § 1915(e)(2). In making the latter determination, the court must give a *pro se*

plaintiff's allegations, "however inartfully pleaded," a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

Washington submits an affidavit in which she declares under penalty of perjury that she incurs \$1,020.00 in monthly expenses and has no monthly income. Washington further asserts that she previously received Social Security Disability benefits, but that the benefits were stopped as of March 1, 2009. Based upon this information, the court determines that the plaintiff is unable to pay the costs of commencing this action.

Liberalizing the plaintiff's allegations, the court also finds that the action is neither frivolous nor malicious, does not fail to state a claim, and does not seek money damages against a defendant immune from such relief. Instead, Washington's complaint appears to set forth a meritorious action appealing a final administrative decision denying her claim for Social Security Disability and/or Supplemental Security Income benefits. The court will, therefore, grant the plaintiff's motion for leave to proceed *in forma pauperis*.

The court warns the plaintiff, however, that she must serve a summons and complaint upon the defendant within 120 days after the filing of the complaint, see Fed. R. Civ. P. 4(m), or the court shall dismiss this action without prejudice.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 22nd day of May, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge